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8 **BEFORE THE**  
**PHYSICIAN ASSISTANT BOARD**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against,

Case No. 1E-2012-225200

12 **KEVIN ROBINSON, P.A.**  
14008 McClure Avenue, Apt. U  
13 Paramount, CA 90723

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

14 **Physician Assistant License No. PA 12720,**  
15  
16 Respondent.

17  
18 **FINDINGS OF FACT**

19 1. On or about April 24, 2015, Complainant Glenn L. Mitchell, Jr., in his official  
20 capacity as the Executive Officer of the Physician Assistant Board (Board), Department of  
21 Consumer Affairs, filed Accusation No. 1E-2012-225200 against Kevin Robinson, P.A.  
22 (Respondent) before the Board.

23 2. On or about April 5, 1991, the Board issued Physician Assistant License No. PA  
24 12720 to Respondent. The Physician Assistant License was in full force and effect at all times  
25 relevant to the charges brought herein and will expire on February 28, 2017, unless renewed. A  
26 true and correct copy of a Certificate of Licensure for Respondent is attached hereto as Exhibit A  
27 and incorporated by reference.

28 ///

1           3.       On or about April 24, 2015, Kristy Voong, an employee of the Complainant  
2 Agency, served by Certified Mail a copy of the Accusation No. 1E-2012-225200, Statement to  
3 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,  
4 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 14008  
5 McClure Avenue, Apt. U, Paramount, CA 90723. A true and correct copy of the Accusation, the  
6 related documents, and Declaration of Service are attached as Exhibit B, and are incorporated  
7 herein by reference.

8           4.       Service of the Accusation was effective as a matter of law under the provisions of  
9 Government Code section 11505, subdivision (c).

10          5.       On or about May 20, 2015, the aforementioned documents sent by Certified Mail  
11 were returned by the U.S. Postal Service marked "Return to Sender", "Unclaimed", and "Unable  
12 to Forward." A true and correct copy of the envelope returned by the post office is attached as  
13 Exhibit C, and is incorporated herein by reference.

14          6.       Government Code section 11506 states, in pertinent part:

15               "(c) The respondent shall be entitled to a hearing on the merits if the respondent files a  
16 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation  
17 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of  
18 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

19          7.       A Notice of Defense in answer to the Accusation was due from Respondent within  
20 15 days after service of the Accusation. To date, Respondent has not submitted a Notice of  
21 Defense to the Board or its counsel of record in this matter. Respondent has, therefore, waived  
22 his right to a hearing on the merits of Accusation No. 1E-2012-225200.

23          8.       A courtesy notice of default was sent to Respondent on July 16, 2015. A true and  
24 correct copy of said notice is attached as Exhibit D, and is incorporated herein by reference.

25          9.       The Declaration of Christina L. Sein attesting to the foregoing facts is attached  
26 hereto as Exhibit E and is incorporated herein by reference.

27       ///

28       ///

10. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

11. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibits A through H finds that the allegations in Accusation No. 1E-2012-225200 are true.

12. The Board further finds that pursuant to Business and Professions Code section 125.3, the costs of investigation and enforcement of the case prayed for in the Accusation totals \$5,067.25, based on the Certification of Costs contained in Exhibit H.

#### **DETERMINATION OF ISSUES**

1. Based on the foregoing findings of fact, Respondent has subjected his Physician Assistant License No. PA 12720 to discipline.

2. Pursuant to its authority under California Government Code section 11520, and based on the evidence before it, the Board hereby finds that the charges and allegations contained in Accusation No. 1E-2012-225200, and the Findings of Fact contained in paragraphs 1 through 12, above, and each of them, separately and severally, are true. A true and correct copy of Accusation No. 1E-2012-225200 and the related documents and Declaration of Service are attached as Exhibit B, and are incorporated herein by reference.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board is authorized to revoke Respondent's Physician Assistant license based upon the following violations alleged in the Accusation:

a. Gross Negligence: Respondent's license is subject to disciplinary action under section 3527, subdivision (a), section 2234, subdivision (b), of the Code, and California Code of Regulations, title 16, section 1399.521, in that Respondent committed gross negligence in his care of patient A. S., by making no attempt to insure that prenatal screening for congenital abnormalities was performed during A. S.'s pregnancy. Respondent failed to understand the

1 importance of a timely AFP test in the first and second trimester. He recognized the discrepancy  
2 in the patient's due date, but failed to follow up on the fact that the AFP test was not valid, which  
3 was clearly stated on the form. Respondent had two chances, at 16 weeks and 18 weeks to rectify  
4 the error, but failed to do so, despite making notes indicating that he knew the AFP had not been  
5 done. Respondent failed to communicate and/or perform prenatal screening as consented to by A.  
6 S. See Exhibit F (Declaration of Michael L. Friedman, M.D.).

7           b. Incompetence: Respondent is subject to disciplinary action under section 3527,  
8 subdivision (a), section 2234, subdivision (d) of the Code, and California Code of Regulations,  
9 title 16, section 1399.521, in that Respondent was incompetent in his care of patient A. S., by  
10 making no attempt to insure that prenatal screening for congenital abnormalities was performed  
11 during A. S.'s pregnancy. Respondent failed to understand the importance of a timely AFP test in  
12 the first and second trimester. He recognized the discrepancy in the patient's due date, but failed  
13 to follow up on the fact that the AFP test was not valid, which was clearly stated on the form.  
14 Respondent had two chances, at 16 weeks and 18 weeks to rectify the error, but failed to do so,  
15 despite making notes indicating that he knew the AFP had not been done. Respondent failed to  
16 communicate and/or perform prenatal screening as consented to by A. S. See Exhibit F  
17 (Declaration of Michael L. Friedman, M.D.).

18           c. Discipline Considerations: On or about June 23, 1997, in a prior disciplinary  
19 action entitled, *In the Matter of the Accusation Against Kevin Robinson, P.A.*, before the  
20 Physician Assistant Board, in Case No. IE-1993-331776, Respondent's license was placed on  
21 probation for five years, including a 14-day suspension and requirements of an ethics course,  
22 supervised monitoring, and medical records maintenance course, for seeing patients unsupervised.  
23 On February 21, 2002, a Petition to Revoke Probation (Case No. D1-1993-33177) was stayed and  
24 probation was extended for two years consecutive with the probation from Case No. IE-1993-  
25 33177, as a result of Respondent's failure to comply with a probation condition relating to the  
26 payment of cost recovery. See Exhibit G (Disciplinary Records).

5. Respondent is hereby ordered to reimburse the Board's costs of investigation and enforcement in this case in the amount of \$5,067.25, based on the Certification of Costs attached as Exhibit H.

## ORDER

**IT IS SO ORDERED** that Physician Assistant License No. No. PA 12720, heretofore issued to Respondent Kevin Robinson, P.A., is revoked.

Respondent is ordered to reimburse the Physician Assistant Board the amount of \$5,067.25 for its investigative and enforcement costs. The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Board for its costs. Respondent's Physician Assistant License may not be renewed or reinstated unless all costs ordered under Business and Professions Code section 125.3 have been paid.

If Respondent ever files an application for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on September 22, 2016.

IT IS SO ORDERED August 23, 2016.

FOR THE PHYSICIAN ASSISTANT BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
GLENN L. MITCHELL, JR.  
EXECUTIVE OFFICER

1 KAMALA D. HARRIS  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO April 24 20 15  
BY R. Voong ANALYST

8  
9 **BEFORE THE**  
**PHYSICIAN ASSISTANT BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 1E-2012-225200

12 **KEVIN ROBINSON, P.A.**  
13 **14008 McClure Avenue, Apt. U**  
14 **Paramount, CA 90723**

**A C C U S A T I O N**

15 **Physician Assistant License No. PA 12720,**  
16 **Respondent.**

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Glenn L. Mitchell, Jr. (Complainant) brings this Accusation solely in his official  
21 capacity as the Executive Officer of the Physician Assistant Board (Board), Department of  
22 Consumer Affairs.

23 2. On or about April 5, 1991, the Board issued Physician Assistant License No. PA  
24 12720 to Kevin Robinson, P.A. (Respondent). That license was in full force and effect at all  
25 times relevant to the charges brought herein and will expire on February 28, 2017, unless  
26 renewed.

27 ///

28 ///

**JURISDICTION**

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3501, subdivision (a)(1), of the Code states:

“(a) As used in this chapter: (1) ‘Board’ means the Physician Assistant Board.”

5. Section 3504.1 of the Code states in pertinent part:

“Protection of the public shall be the highest priority for the Physician Assistant Board in exercising its licensing, regulatory, and disciplinary functions.”

6. Section 3527, subdivision (a), of the Code states:

“(a) The board may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license after a hearing as required in Section 3528 for unprofessional conduct that includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.”

7. Section 2234, subdivisions (b) and (d), of the Code state:

“The [Medical Board of California] shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“....

“(b) Gross negligence.”

“....

“(d) Incompetence.”

8. California Code of Regulations, title 16, section 1399.521, subdivision (a), states:

“In addition to the grounds set forth in section 3527, subd. (a), of the Code the board may deny, issue subject to terms and conditions, suspend, revoke or place on probation a physician assistant for the following causes:

///

1       “(a) Any violation of the State Medical Practice Act which would constitute unprofessional  
2 conduct for a physician and surgeon.”

3                               **COST RECOVERY**

4       9.     Section 125.3 of the Code states:

5       (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary  
6 proceeding before any board within the department or before the Osteopathic Medical Board,  
7 upon request of the entity bringing the proceeding may request the administrative law judge to  
8 direct a licentiate found to have committed a violation or violations of the licensing act to pay a  
9 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

10       (b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may  
11 be made against the licensed corporate entity or licensed partnership.

12       (c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs  
13 are not available, signed by the entity bringing the proceeding or its designated representative  
14 shall be prima facie evidence of reasonable costs of investigation and prosecution of the case.  
15 The costs shall include the amount of investigative and enforcement costs up to the date of the  
16 hearing, including, but not limited to, charges imposed by the Attorney General.

17       (d) The administrative law judge shall make a proposed finding of the amount of reasonable  
18 costs of investigation and prosecution of the case when requested pursuant to subdivision (a).  
19 The finding of the administrative law judge with regard to costs shall not be reviewable by the  
20 board to increase the cost award. The board may reduce or eliminate the cost award, or remand to  
21 the administrative law judge where the proposed decision fails to make a finding on costs  
22 requested pursuant to subdivision (a).

23       (e) Where an order for recovery of costs is made and timely payment is not made as  
24 directed in the board's decision, the board may enforce the order for repayment in any appropriate  
25 court. This right of enforcement shall be in addition to any other rights the board may have as to  
26 any licentiate to pay costs.

27       (f) In any action for recovery of costs, proof of the board's decision shall be conclusive  
28 proof of the validity of the order of payment and the terms for payment.



1 (g) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the  
2 license of any licentiate who has failed to pay all of the costs ordered under this section. (2)  
3 Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate  
4 for a maximum of one year the license of any licentiate who demonstrates financial hardship and  
5 who enters into a formal agreement with the board to reimburse the board within that one-year  
6 period for the unpaid costs.

7 (h) All costs recovered under this section shall be considered a reimbursement for costs  
8 incurred and shall be deposited in the fund of the board recovering the costs to be available upon  
9 appropriation by the Legislature.

10 (i) Nothing in this section shall preclude a board from including the recovery of the costs of  
11 investigation and enforcement of a case in any stipulated settlement.

12 (j) This section does not apply to any board if a specific statutory provision in that board's  
13 licensing act provides for recovery of costs in an administrative disciplinary proceeding.

#### 14 **FIRST CAUSE FOR DISCIPLINE**

##### 15 **(Gross Negligence)**

16 10. Respondent's license is subject to disciplinary action under section 3527, subdivision  
17 (a), section 2234, subdivision (b), of the Code, and California Code of Regulations, title 16,  
18 section 1399.521, in that Respondent committed gross negligence in his care of patient A. S., as  
19 more particularly alleged hereinafter:

20 A. A. S., a 20-year old female, received prenatal care from Respondent at Sunset  
21 Medical Clinic located at 4719 S. Broadway, Los Angeles, California 90037, which resulted in  
22 her baby being born with undiagnosed Down's Syndrome. A. S. saw Respondent for care during  
23 the entire pregnancy and he signed off on each visit.

24 B. A. S. was first seen by Respondent on or about November 11, 2009.  
25 Respondent checked her admission paperwork, performed a physical examination, and ordered all  
26 the routine prenatal lab studies for a new patient, including an ultrasound for the following day.  
27 On that day, A. S. signed a consent form to participate in the California Prenatal Screening  
28 Program, which includes as part of the program a Quad Screen for Down's Syndrome. All of her

1 lab studies were recorded in her chart with the exception of her alpha-fetoprotein (AFP) multiple  
2 markers and Down's Syndrome markers, which were left blank.

3 C. A. S. was next seen by Respondent on or about November 21, 2009. A. S.'s  
4 ACOG antepartum record was corrected to be consistent with the ultrasound report, which placed  
5 her EDC, or estimated delivery date, as June 21, 2010 by ultrasound, instead of EDC of May 21,  
6 2010, by last menstrual period.

7 D. A. S. was next seen by Respondent on or about December 14, 2009, at which  
8 time a note was made for AFP (Quad Screen) and rescheduled for AFP # 2 in three weeks. The  
9 laboratory results sheet listed the AFP test as being done on December 14, 2009, with no result.  
10 The second trimester screening form was signed by A. S. on December 17, 2009. The report  
11 form from the prenatal screening program, dated December 22, 2009, stated that the report was  
12 inadequate for interpretation and either a Nuchal Translucency between 11 and 14 weeks could  
13 have been provided or a second draw after 15 weeks could be submitted for interpretation and the  
14 program would be able to combine the data of the two tests to make a diagnosis of Down's  
15 Syndrome. This page of the report was neither signed nor acknowledged by Respondent. There  
16 was no follow up to the December 22, 2009 report and there was no other Quad Screen  
17 paperwork filled out or any other lab test draw for follow up screening. There were no notes in  
18 the medical records by Respondent to indicate any issues with screening and he never reported it  
19 to the supervisory physician.

20 E. A. S. was seen again on January 4, 2010 and dated at 16 weeks. On or about  
21 January 25, 2010, she was seen again and dated at 18 weeks and 5 days. Another note was made  
22 by Respondent about AFP # 2. At the next visit, on or about February 16, 2010, there was no  
23 mention of Quad Screen results. Now at 22 weeks and 2 days, it was too late for any more  
24 testing to be done. There were no notes in the medical records relating to this fact.

25 F. A. S. gave birth by C-section on June 15, 2010 to a female baby with Down's  
26 Syndrome. All state mandated blood and lab tests were indicated on the laboratory sheet with the  
27 exception of the Quad Screen test.

28 ///

1           11.    The standard of care for a physician assistant requires that he order the proper tests,  
2 monitor the results, and is aware of any abnormal value. It is the obligation of the physician  
3 assistant to notify the supervisory physician of any abnormal tests, missing tests, or to ask  
4 permission to order other tests.

5           12.    The standard of care for a physician assistant caring for an OB patient calls for the  
6 ordering of routine prenatal tests, pap smear, and cultures, which are ACOG or standard tests. In  
7 California, all patients need to be informed of the availability of the California Genetic Testing  
8 Program. The patient can refuse the fetal testing for personal reasons and sign the "no"  
9 designation on the form. In 2009, if a patient would like to have the test performed to evaluate  
10 for the possibility of Down's Syndrome or other genetic or congenital abnormalities, the patient  
11 must sign the "yes" box prior to blood being drawn. (There is now a direct blood chromosomal  
12 test for Down's Syndrome that was not available in 2009.)

13           13.    Once the patient decides to have the test performed, there are two alternatives  
14 available. Under either alternative, it is the responsibility of the physician assistant to  
15 communicate with his supervisory physician to be 100% certain that the test was done properly,  
16 timely, and that appropriate referrals were made if the test was suggestive of Down's Syndrome.  
17 Every single patient has the same test made available. Such is the physician assistant's  
18 responsibility for which he is being supervised to perform in 100% of patients with no exception  
19 unless the patient refuses for personal reasons, which needs to be fully documented.

20           14.    Respondent's practice includes the following acts and/or omissions which constitute  
21 an extreme departure from the standard of care:

22           A.       There was no attempt to insure that prenatal screening for congenital  
23 abnormalities was performed during A. S.'s pregnancy. Respondent failed to understand the  
24 importance of a timely AFP test in the first and second trimester. He recognized the discrepancy  
25 in the patient's due date, but failed to follow up on the fact that the AFP test was not valid, which  
26 was stated on the form clearly. Respondent had two chances at 16 and 18 weeks to rectify the  
27 error, but failed to do so, despite making notes indicating that he knew the AFP had not been  
28 done.

1 B. Respondent failed to communicate and/or perform prenatal screening as  
2 consented to by A. S.

3 15. Respondent's acts and/or omissions as set forth in paragraphs 10 through 14,  
4 inclusive, above, whether proven individually, jointly, or in any combination thereof, gross  
5 negligence pursuant to section 2234, subdivision (b), of the Code. Therefore, cause for discipline  
6 exists.

### 7 SECOND CAUSE FOR DISCIPLINE

#### 8 (Incompetence)

9 16. Respondent is subject to disciplinary action under section 3527, subdivision (a),  
10 section 2234, subdivision (d) of the Code, and California Code of Regulations, title 16, section  
11 1399.521, in that Respondent was incompetent in his care of patient A. S., as more particularly  
12 alleged hereinafter:

13 17. Paragraphs 10 through 14, above, are incorporated by reference as though fully set  
14 forth herein.

15 18. Respondent's acts and/or omissions as set forth in paragraph 17, above, whether  
16 proven individually, jointly, or in any combination thereof, constitute incompetence pursuant to  
17 section 2234, subdivision (d), of the Code. Therefore, cause for discipline exists.

### 18 DISCIPLINE CONSIDERATIONS

19 19. To determine the degree of discipline, if any, to be imposed on Respondent,  
20 Complainant alleges that on or about June 23, 1997, in a prior disciplinary action entitled, *In the*  
21 *Matter of the Accusation Against Kevin Robinson, P.A.*, before the Physician Assistant Board, in  
22 Case No. IE-1993-33177, Respondent's license was placed on probation for five years, including  
23 a 14-day suspension and requirements of an ethics course, supervised monitoring, and medical  
24 records maintenance course, for seeing patients unsupervised.

25 20. On February 21, 2002, a Petition to Revoke Probation (Case No. D1-1993-331776)  
26 was stayed and probation was extended for two years consecutive with the probation from Case  
27 No. IE-1993-33177, as a result of failure to comply with a probation condition relating to the  
28 payment of cost recovery.

21. Both decisions are final and are incorporated by reference as if fully set forth.

## PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physician Assistant Board issue a decision:

1. Revoking or suspending Physician Assistant License No. PA 12720, issued to Respondent;

2. Ordering Respondent to pay the Physician Assistant Board the reasonable costs of the investigation and enforcement of this case and, if placed on probation, the costs of probation monitoring; and

3. Taking such other and further action as deemed necessary and proper.

DATED: April 24, 2015

  
 GLENN L. MITCHELL, JR.  
 Executive Officer  
 Physician Assistant Board  
 Department of Consumer Affairs  
 State of California  
*Complainant*

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